IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CRIMINAL JURISDICTION
CRIMINAL WRIT PETITION NO. 2383 OF 2006

M/s Thinking Machines Pvt. Ltd.. Petitioners
& ors
vs

M/s Electronical Leasing & Finance Ltd
..Respondents

Mr.H.E.Palwe for Petitioners

Mr.Girish Agarwal for Respondent no.1
Mr.Y.M.Nakhawa APP for State
CORAM : B.H.MARLAPALLE, J

DATED : 11th July, 2007

P.C.

1. Heard learned counsel for the respective parties and learned A.P.P. appearing for respondent no.2. The respondent no.1 initiated criminal case No.7089 of 2002 before the learned Judicial Magistrate, First Class at Nasik for offences punishable under section 138 read with section 144 of the Negotiable Instrument Act, 1881 as well as under section 420, 120 B read with section 34 IPC. On verification, the learned Magistrate issued process as per his order dated 29th September, 2006 against accused persons but did not specify whether the process was issued for all the offences or any of them or it was a composite process order.

2. The accused nos. 2 and 3 therefore filed application before the learned Magistrate and

prayed for their discharge from the case. The said application has been allowed partly and held that the plea recorded shall be treated for the offence punishable under section 138 of the Negotiable Instruments Act. This relief granted to the applicant by the learned Magistrate. by order dated 2nd August, 2005 came to be challenged in Criminal Revision Application No.510 of 2005 by the original complainant and the said revision has been allowed on 31st July, 2006 by the learned IIIrd Ad hoc Additional Sessions Judge and hence, this petition by the original accused.

3. Technicalities apart, this petition can be disposed off by protecting the interest of both the parties. Hence, it is directed that the process issued in Criminal Case No.7089 of 2002 shall be treated to be process for offence punishable under section 138 of the Negotiable Instruments Act, 1881 and the complainant is at liberty to file a fresh complaint against the accused for the offences punishable under section 420, 120B read with section 34 of IPC, if so desired.

4. The Petition is disposed off in terms of above directions. this order. Writ to go to the trial court forthwith. The trial of the complaint is expedited.

(B.H.Marlapalle, J)